

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN J. LYNKAAS, D.D.S.,
P.L.L.C., individually and as the
representative of a class of similarly-
situated persons,

Plaintiffs,

v.

Civil Case No. 22-10830
Honorable Linda V. Parker

SOLSTICE BENEFITS, INC. and
JOHN DOES 1-5

Defendants.

**ORDER CLARIFYING COURT’S ORDER ON DEFENDANT’S MOTION
FOR JUDGMENT ON THE PLEADINGS**

The matter is presently before the Court on Defendant Solstice Benefits, Inc.’s (“Solstice”) Motion for Clarification and/or Reconsideration of Opinion and Order Denying Defendant’s Motion for Judgment on the Pleadings, filed on April 19, 2023. (ECF No. 28) Upon review of Solstice’s motion and reflection of the Court’s Opinion, ECF No. 25, the Court will make the necessary clarification. Although the Court applied the correct legal standard for determining a motion for judgment on the pleadings, the Court acknowledges that some of the language in the Order may have been drafted to infer that the Court made a merits determination on whether the fax communication at issue is an “advertisement”

under the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”).

However, no merits determinations have been made. As such, the Court clarifies that Plaintiff Brian J. Lyngaas, D.D.S., P.L.L.C. (“Plaintiff”) has stated sufficient facts in the Complaint to plausibly assert that the Fax is an “advertisement” under the TCPA, and Solstice’s Motion for Judgment on the Pleadings, ECF No. 15, was denied on those grounds.

Accordingly,

IT IS ORDERED that Solstice’s Motion for Clarification and/or Reconsideration of Opinion and Order Denying Defendant’s Motion for Judgment on the Pleadings (ECF No. 28) is **GRANTED**.

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: June 8, 2023